

Application No.
Z-16-05-05
(Rezoning)

Applicant
Charlotte County Board of County
Commissioners /
Section 3-9-88 – Waterfront Property

Quasi-Judicial

Countywide



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MEMORANDUM

Date: May 25, 2016

To: Honorable Board of County Commissioners
The Planning and Zoning Board

From: Matthew T. Trepal, Principal Planner

RE: Z-16-05-06, a publicly-initiated revision to Section 3-9-88 of the Charlotte County Code, Waterfront Property

Staff Recommendation:

"Approve adoption of petition No. Z-16-05-05, based on the findings and analysis in the staff report dated May 25, 2016 and the evidence presented at the public hearing."

Planning and Zoning Board recommendation:

"Motion to forward petition No. Z-16-05-05 to the Board of County Commissioners with a recommendation of Approval, based on the findings and analysis in the staff report dated May 25, 2016 and the evidence presented at the public hearing."

Purpose of This Amendment:

Z-16-05-05 involves a revision to Section 3-9-88 of the Charlotte County Code. This section, Waterfront Property, establishes maximum heights within 1,200 feet of the water of Charlotte Harbor, the Gulf of Mexico, Lemon Bay, Gasparilla Sound, Placida Harbor, Red Fish Cove, the Myakka River, the Peace River, and Coral Creek. This section limits maximum heights to 35 feet above the lowest habitable floor elevation, further establishes what the height of a structure may be in relation to the property lines and road rights-of-way, and defines a specific methodology by which heights may be measured. The proposed revisions to this section of the Code exempt the entire area covered by the Charlotte Harbor Community Development Code from its provisions.

Analysis

The Charlotte Harbor Community Redevelopment Plan was adopted to aid in the development and redevelopment of one of the oldest neighborhoods in Charlotte County. As part of the Redevelopment Plan, the area around the base of the U.S. 41 bridge was designated as the "Riverwalk" area, with the intent to "develop a mix of uses: residential, retail, and tourist-related that will [become] a pedestrian-

COMMUNITY DEVELOPMENT DEPARTMENT

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oriented destination for residents and tourists....” The Plan noted that impediments to realizing this intent included height and density allowances that were too restrictive, and recommended allowing an increase in the maximum height from 35 to 90 feet “if performance standards are met”. The Charlotte Harbor Riverwalk area lies completely within the 1,200-foot setback from the Peace River required by Section 3-9-88.

Development standards were adopted into the Charlotte Harbor Community Development Code establishing the means by which the height of structures within the Riverwalk area could be increased beyond 35 feet. Similarly, Section 3-9-88 was amended to exempt the Riverwalk area from the height limitations it imposed. However, it did not exempt the Riverwalk area from the setback requirements, which state that structures must be “set back from property lines... not less than the greater of the distance required by the applicable zoning district or a distance equal to the height of any setback calculation point”, which is defined as “any given point on the outside of a building located between the lowest minimum habitable floor elevation for which a building permit may be issued and the highest point of the roof structure”. This means that a building 35 feet high needed to be set back from all property lines at least 35 feet. This can be mitigated by having a “step-back” or “wedding cake” appearance, where the lowest elevation of the building might be set back ten feet from the property line, but at ten feet in height the structure must be set further back; if the building continues to 20 feet in height, the second level must be set back another ten feet.

This “wedding cake” appearance is unwieldy, at best, for tall buildings, and essentially impossible to achieve for a building 90 feet tall. Additionally, implementing either the step-backs or very large setbacks would not create the pedestrian-oriented place the Redevelopment Plan envisions for the Riverwalk area.

During the revision to the Charlotte Harbor Community Development Code, these setbacks and the difficulties they imposed upon potential development and redevelopment were discussed. It was determined by the Charlotte Harbor Community Redevelopment Area Advisory Committee, who worked with County staff on the Code revisions, that the Riverwalk area should also be exempted from the setback requirement. After additional discussion it was decided to recommend exemption of the entire Charlotte Harbor Community from all of the provisions of Section 3-9-88.

Consistency with Smart Charlotte 2050:

FLU Policy 4.1.1: 2050 Framework – Neighborhoods established Revitalizing Neighborhoods within the County, stating that these are “*areas that are predominantly built-out... where the housing and commercial stock is aging and in general need of reinvestment and revitalization*”. **FLU Policy 4.2.1: Revitalization Plans** states that the County may adopt Revitalization Plans for Revitalizing Neighborhoods, which would be a means to “*enable the ability to rezone*”, to “*create additional redevelopment incentives*”, and to “*establish development standards... to support redevelopment initiatives*”. **FLU Policy 4.2.4: Charlotte Harbor Community Revitalizing Area** and **FLU Policy 4.2.5: Charlotte Harbor Community Revitalization Plan (CHCRP)** establish the Charlotte Harbor Community as a Revitalizing Neighborhood and establish the Charlotte Harbor Community Revitalization Plan. Further, **FLU Policy 5.3.2: Community Redevelopment Areas** states that the County will “*support the concept and ideas expressed in the adopted Community Redevelopment Plans*” for the Community Redevelopment Areas, including the Charlotte Harbor CRA. This rezoning furthers all of these policies

Conclusion:

Staff recommends that this code amendment be approved.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-88. Waterfront Property

Sec. 3-9-88. Waterfront property.

- (a) Marine businesses and waterfront industrial uses are permitted to build up to the seawall, bulkhead or bulkhead line of any creek, canal, river, lake or other body of water, natural or artificial, in the county.
- (b) Where the provisions of this section are deemed inconsistent with ~~either Section 3-9-47, the Charlotte Harbor Community Development Code or Section 3-9-50~~ the Manasota Key Zoning District Overlay ~~or the Charlotte Harbor Riverwalk zoning district~~, the provision of the latter shall apply.
- (c) The following requirements shall apply, in addition to all other zoning requirements, to any lot, or portion of lot, located anywhere on a barrier island or within ~~one thousand two hundred (1,200)~~ feet of the water of Charlotte Harbor, the Gulf of Mexico, Lemon Bay, Gasparilla Sound, Placida Harbor, Red Fish Cove, the Myakka River, the Peace River, or Coral Creek.
 - (1) No residential or commercial building shall exceed ~~thirty-five (35)~~ feet in height from the lowest habitable floor for which a building permit can be issued to the highest point of a flat roof and mansard roof, or to the ~~mid-point~~~~mid-point~~ height between the eaves and ridge of gable, hip and gambrel roofs. In no event shall any area above ~~thirty-five (35)~~ feet be used or made available for storage or human occupancy. No boat storage facility shall exceed ~~forty-eight (48)~~ feet in height from average natural surrounding grade. ~~This restriction shall not apply to properties located in the Riverwalk District of the Charlotte Harbor Community Redevelopment Area, identified in section 3-9-50.5(c), if the development complies with the performance standards of that code.~~
 - (2) Buildings shall be set back from property lines abutting streets not less than the greater of the distance required by the applicable zoning district or a distance equal to the height of any setback calculation point, as such term is defined ~~in subsection (b)(7) hereof~~~~below~~. This restriction shall not apply to properties ~~located in the Charlotte Harbor Community Redevelopment Area~~~~subject to Section 3-9-47, the Charlotte Harbor Community Development Code.~~
 - (3) Buildings shall be set back from side property lines not abutting streets not less than the greater of the distance required by the zoning classification or a distance equal to one-half ($\frac{1}{2}$) the height of any setback calculation point. No building shall be constructed or located within ~~twenty (20)~~ feet or a distance equal to the height of any setback calculation point, whichever is greater, of the mean high waterline of Charlotte Harbor, Lemon Bay, Gasparilla Sound, Placida Harbor, Red Fish Cove, the Myakka River, the Peace River, or Coral Creek.
 - (4) No building except single-story accessory structures shall be constructed a lesser distance from another building on the same lot than a distance equal to the height of the higher building.
 - (5) No building shall be constructed or located within ~~fifty (50)~~ feet or a distance equal to the height of any setback calculation point, whichever is greater, of the mean high water line of the Gulf of Mexico. No building may be constructed seaward of the coastal construction control line unless a permit has been issued by the state.
 - (6) No building shall exceed ~~two hundred (200)~~ feet in width or length on properties abutting the shorelines of the Gulf of Mexico, Lemon Bay, Placida Harbor, Gasparilla Sound, Charlotte Harbor, the Myakka River, the Peace River, Red Fish Cove, or Coral Creek.
 - (7) For purposes of this subsection ~~3-9-98(b)~~, a setback calculation point shall be defined as any given point on the outside of a building located between the lowest minimum habitable floor elevation for which a building permit may be issued and the highest point of the roof structure. For purposes of this subsection ~~3-9-98(b)~~, a height of a setback calculation point shall be calculated by measuring the vertical distance from the lowest minimum habitable floor elevation to the chosen setback calculation point. For purposes of this subsection ~~3-9-98(b)~~, a setback distance based on the height of a setback calculation point (or fraction thereof) shall be calculated by measuring the horizontal distance from the chosen setback calculation point to the applicable property line.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-88. Waterfront Property

Diagram "A", attached to Ordinance No. 2002-008 and incorporated herein, shall be used for purposes of illustration, and not of limitation, of the calculation of setbacks for side property lines pursuant hereto. For purposes of determining whether setback requirements have been met under this subsections ~~3-9-98(b)(2), (b)(3) and (b)(5)~~, any setback for a building must meet the applicable requirement regardless of which setback calculation point or points are used in the calculation of the setback.

- (d) Any existing beachfront or waterfront lot of record as of January 1, 1998, not less than ~~fifty (50)~~ feet wide and not less than ~~fifteen thousand (15,000)~~ square feet in area in any district permitting multiple-family, two-family or single-family residential uses may be divided into two ~~(2)~~ lots, each of which shall have not less than the minimum lot area required for the district in which the lot is located. There shall be permitted one ~~(1)~~ driveway easement not less than ten ~~(10)~~ feet in width along either side lot line of the total parcel, which driveway shall connect to a public road. Side yards not less than five ~~(5)~~ feet from the driveway easement shall be required for all buildings. Rear yards and front yards may be perpendicular to the driveway easement as required for the district in which the property is located.
- (e) The provisions of this ~~section~~ Section 3-9-98 shall apply only in the unincorporated areas of Charlotte County.



CHARLOTTE COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for REZONING

Date Received: MAY 2, 2016	Time Received:
Date of Log-in: MAY 3, 2016	Petition #: Z-16-05-05
Receipt #: N/A	Accela #:
	Amount Paid: N/A

1. PARTIES TO THE APPLICATION

Name of Applicant: Charlotte County BCC

Mailing Address: 18300 Murdock Cir

City: Port Charlotte State: FL Zip Code: 33948

Phone Number: Fax Number:

Email Address:

Name of Agent:

Mailing Address:

City: State: Zip Code:

Phone Number: Fax Number:

Email Address:

Name of Engineer/Surveyor:

Mailing Address:

City: State: Zip Code:

Phone Number: Fax Number:

Email Address:

Name of Property Owner (if more than one property owner, attach a separate sheet with a list of all owners):

Mailing Address:

City: State: Zip Code:

Phone Number: Fax Number:

Email Address:

2. PROPERTY INFORMATION

If more than one account number exists, attach a separate sheet listing all information required by this section

Property Account #:		
Section:	Township:	Range:
Parcel/Lot #:	Block #:	Subdivision:
Total acreage or square feet of the property:		

3. SURVEY:

- For unplatted property, provide one original boundary survey that is **signed and sealed** by a registered land surveyor and an accurate legal description (including acreage) of the property.
- For platted land, provide one original surveyor's sketch that is **signed and sealed** by a registered land surveyor and an accurate legal description (including acreage) of the property.

4. PROOF OF LAND OWNERSHIP: Provide the most current *Title Insurance Policy* or an *Ownership and Encumbrance Report* on the subject property.

5. NOTARIZED AUTHORIZATION:

- If the applicant is not the owner of the property, a written, notarized authorization from each owner must be provided with this application – use Form A, attached. Property owner authorization is required. If the property owner withdraws permission at any point during the review and approval process, the application is considered null and void.
- If an agent is submitting the application for the applicant – authorization from the applicant is required – use Form B, attached.

6. RESTRICTIONS: Provide a copy of any covenants, easements or restrictions that have been recorded for the subject site.

7. EXISTING LAND USE DESIGNATIONS

Future Land Use Map (FLUM) designation(s)	Acreage
N/A	N/A
Zoning District(s)	Acreage
N/A	N/A

8. APPLICANT'S PROPOSED CHANGE(S):

Amending Zoning designation(s) to:

N/A

If the proposed change involves an increase in density, which of the Receiving Zone criteria does the property meet, or would this be an exemption consistent with a Revitalization Plan?

9. REASON FOR PROPOSED CHANGE(S):

Revisions to Sec. 9-9-88, Waterfront Property, to exempt Charlotte Harbor

10. CURRENT LAND USE OF SUBJECT PROPERTY (example: house, vacant land, barn, etc.):

N/A

11. SURROUNDING LAND USES:

North:

South:

East:

West:

N/A

12. ENVIRONMENTAL ASSESSMENT:

- Provide an *Environmental Assessment Report*, conducted within one year or less from the date of submittal, that includes:
 - Maps and surveys of the subject site illustrating the existing land cover according to Level 3 of the FLUCCS
 - Locations of listed flora and fauna species, if present.
 - If any wetlands are identified on site, provide a survey showing delineations of any wetlands, acreages, and the wetland Category (ENV Policy 3.1.3) under which they fall.
 - If the property is adjacent to any Federal, State, or County wildlife management areas, parks, preserves or reserves, supply a science-based analysis of possible impacts to the environmental resources of these lands and the manner in which these impacts can be eliminated. Where elimination is not possible, the analysis shall detail how these impacts can be reduced and mitigated.

13. INFRASTRUCTURE:

A. Roadway

- i. List the roads or streets upon which vehicles may travel to gain access to the site (generally within ¼ mile radius):

N/A

- ii. *Traffic Impact Report*: This narrative does not need to be authored by a registered professional engineer. Address the number of vehicle trips that may be generated by development of the subject site at maximum buildout allowed under the proposed FLUM and Zoning.

B. Potable Water and Sanitary Sewer

- i. Submit a letter from any water or sewer utilities that will be serving the subject site stating availability of utility service to the property.
- ii. Attach an *Estimated Potable Water and Sanitary Sewer Usage Report* showing the gallons per day that may be generated by development of the subject site at maximum buildout allowed under the proposed Zoning.

14. HISTORICAL OR ARCHEOLOGICAL SITES: When the property under review is within the area determined to contain potential historic and archeological resources by the Archaeological Predictive Model (depicted on SPAM Series Map #3), the applicant must submit an *Archeological/Historical Memo* indicating that a review of the National Register of Historic Places, the Florida Master Site File and the Local Historic Register (when available) has been performed and the results of that review. If the subject site contains any object listed in these resources, the applicant must provide an *Archeological/Historical Survey* performed by a professional archeologist licensed in the State of Florida.

15. REZONING NARRATIVE

Charlotte County Code Section 3-9-11(e) lists the following standards for approval. A narrative stating the applicant's justification for the rezoning based upon the following standards of approval is required:

- A. Whether the proposed change would be contrary to the Comprehensive Plan
- B. The existing land use pattern in adjacent areas
- C. The population density pattern and possible increased load on public facilities such as schools, utilities, and streets
- D. Whether changed conditions make the passage of the proposed amendment appropriate
- E. Whether the proposed change will adversely influence living conditions or property values in adjacent areas
- F. Whether the proposed change will affect public safety
- G. Whether the proposed change will reduce light and air to adjacent areas
- H. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning

16. ADJACENT PROPERTY OWNERS INFORMATION:

Provide an *electronic text file (.txt)* that includes the names and addresses of all property owners within 200 feet of the subject property (excluding street right-of-ways), and a map indicating which properties are included in the address list. The Adjacent Property Owner List must be based upon the latest available property records of the Property Appraiser's Office. The list shall include property owner's name, mailing address, and parcel(s) or lot(s) description or account number so each parcel can be referenced on the Adjacent Property Owner Map. Refer to the Geographic Information System Internet site for mapping and owner information at <http://www.ccgis.com/>. (Use a buffer of 250 feet or larger in order to account for right-of-ways, canals, etc.) Every property owner within 200 feet of every parcel of land involved will be notified of the schedule of public hearings

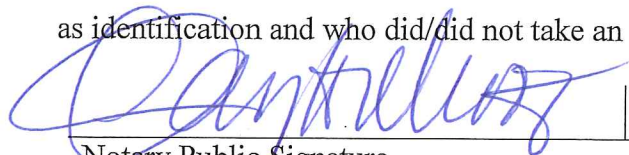
AFFIDAVIT

I, the undersigned, being first duly sworn, depose and say that all data and other supplementary matter attached to and made a part of the application and staff report are honest and true to the best of my knowledge and belief.

STATE OF FLORIDA, COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 2nd day of MAY, 20 16, by
JIE SHAO
who is personally known to me or has/have produced

as identification and who did/did not take an oath.



Notary Public Signature



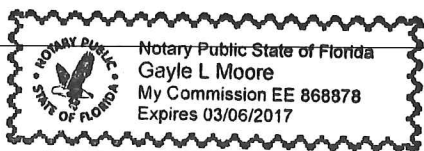
Signature of Applicant or Agent

Notary Printed Signature

JIE SHAO

Printed Signature of Applicant or Agent

Title



Address

Charlotte County Community Development
Department - Comprehensive Planning
18500 Murdock Circle, B-205
Port Charlotte, FL 33948

Commission Code

City, State, Zip

941-743-1272

Telephone Number